

BEFORE THE
POSTAL REGULATORY COMMISSION

Periodic Reporting
(Proposal Four)

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Docket No. RM2016-12

**MOTION OF UNITED PARCEL SERVICE INC. FOR LEAVE TO FILE A RESPONSE
TO REPLY COMMENTS AND EXPERT MATERIALS SUBMITTED BY UNITED
STATES POSTAL SERVICE AND AMAZON FULFILLMENT SERVICES, INC.**

(November 21, 2016)

United Parcel Service, Inc. ("UPS") respectfully submits this motion for leave to file a response to the reply comments and supporting expert materials filed by the United States Postal Service ("Postal Service") and Amazon Fulfillment Services, Inc. ("Amazon") in response to UPS's initial comments in this docket on November 14, 2016. See Reply Comments of the United States Postal Service ("USPS Reply Comments"), Dkt. No. RM2016-12 (Nov. 14, 2014); Michael D. Bradley Report to Accompany the Postal Service's Reply Comments in Docket No. RM2016-12 ("Reply Bradley Report"), Dkt. No. RM2016-12 (Nov. 14, 2016); Reply Comments of Amazon Fulfillment Services, Inc. ("Amazon Reply Comments"), Dkt. No. RM2016-12 (Nov. 14, 2016); Declaration of T. Scott Thompson on Behalf of Amazon Fulfillment Services, Inc. ("Thompson Declaration"), Dkt. No. RM2016-12 (Nov. 14, 2016). Although the Commission's rules do not authorize such a response as a matter of right, the Commission may exercise its discretion to accept such a filing. See 39 C.F.R. § 3001.21(b).

This docket relates to Proposal Four and the measurement of the variability of highway transportation capacity with respect to mail volume. UPS submitted an extensive report by its experts Dr. Kevin Neels and Dr. Nicholas Powers of The Brattle Group (“Brattle Report”) in support of its Initial Comments. See United Parcel Service Comments on Postal Service Proposal Four Regarding Proposed Changes in Analytical Principles, Dkt. No. RM2016-12 (Oct. 17, 2016); Report of Dr. Devin Neels and Dr. Nicholas Powers To Accompany UPS Comments In Docket No. RM2016-12 (“Brattle Report”), Dkt. No RM2016-12 (Oct. 17,2016). In their reply comments, USPS, Amazon, and their experts repeatedly misconstrue the Brattle Report, and conduct new econometric analysis in defense of Proposal Four.

First, both the Reply Bradley Report and the Thompson Declaration give extensive critiques of a simulation documented in the Brattle Report, and appear to argue that alleged failures of the simulation undermine conceptual and econometric arguments made elsewhere in the Brattle Report. The Brattle Report’s simulation was intended only as an illustration of the Brattle Report’s critiques of the TRACS system, and is in no way representative of UPS’ or The Brattle Group’s understanding of the actual Postal System. Second, the Reply Bradley Report seeks to defend Proposal Four with new econometric analysis. In so doing, however, the Reply Bradley Report calculates a new set of variabilities of capacity with respect to volume which are significantly different than the variabilities contained in Proposal Four and Bradley’s initial analysis underlying that Proposal. In effect, the Reply Bradley Report admits that Bradley’s initial analysis was incorrect.

In light of these issues and more contained in the USPS and Amazon reply materials, to which UPS would otherwise have no opportunity to respond, UPS respectfully moves for leave to file reply comments to these materials. Due to the complexity of this docket and the extensive expert work already conducted, UPS respectfully asks for three weeks from the filing of USPS' and Amazon's reply materials to file its response. The deadline for UPS' further reply would thus be December 5, 2016. The contemplated reply comments would not be used as a vehicle to raise new arguments, but only as an opportunity to address arguments already raised in this docket to which UPS has not yet had any opportunity to respond.

Respectfully submitted,

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